TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 408.

THE UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,

vs.

GEORGE REMUS, HARRY F. BROWN, OTHERWISE CALLED HARRY BROWN, AND A. BROWN, GEORGE CONNERS, ET AL.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF OHIO.

FILED MAY 27, 1922.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1922.

No. 403.

THE UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,

vs.

GEORGE REMUS, HARRY F. BROWN, OTHERWISE CALLED HARRY BROWN, AND A. BROWN, GEORGE CONNERS, ET AL.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF OHIO.

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1 In the District Court of the United States of America, for the Southern District of Ohio, Western Division.

Of the April term, in the year 1922.

FIRST COUNT.

SOUTHERN DISTRICT OF OHIO,
Western Division, ss:

The grand jurors for the United States of America empaneled and sworn in the District Court of the United States for the Southern District of Ohio, Western Division, at the April term of said court in the year 1922, and inquiring for said division and district, upon their oath present, that George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Connors; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug, each late of said division and district, hereinafter called defendants, continuously throughout the period of time from April 20, 1919, to the day of the finding and presentation of this indictment, at the city of Cincinnati, in said Western Division of said Southern District of Ohio, unlawfully and feloniously have conspired, combined, confederated, and agreed together, and with divers other persons to said grand jurors unknown, to commit during said period of time a large number, to wit, three hundred, offenses against the United States, each to consist in transporting, to a place in said city called Death Valley Farm, from divers other places, to wit, from the warehouse of the Edgewood Company, in said city, from the distillery and warehouse of W. P. Squibb and Company, at Lawrenceburg, Indiana, and from other warehouses and distilleries to said grand jurors unknown, a large quantity, to consist usually of an automobile truck load,
2 of intoxicating liquor, to wit, whiskey, without first obtaining a permit from the Commissioner of Internal Revenue of the United States so to do; another offense against the United States to consist in maintaining, at said Death Valley Farm, a house, a building, and a place, where intoxicating liquor, to wit, said whiskey, so transported to said Death Valley Farm, was to be kept by said defendants and sold by them in violation of Title II of the national prohibition act; another offense against the United States to consist in possessing, at said Death Valley Farm, said intoxicating liquor otherwise than as authorized by said national prohibition act; and a large number, to wit, three thousand, other offenses against the United States, each to consist in selling, at said Death Valley Farm, for beverage purposes, a quantity, usually consisting of twelve quart bottles, of said whiskey, in violation of said Title II of the national prohibition act.

Overt act.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said defendants, at the several times and places in that behalf hereinafter mentioned in connection with their names, did so, among others, certain acts to effect the object of said unlawful and felonious conspiracy, combination, confederation, and agreement, that is to say:

1. Said Charles Wissman, on October 23, 1921, transported twelve barrels, each containing forty gallons, of whiskey, by automobile truck from said distillery of said W. P. Squibb and Company, at Lawrenceburg, Indiana, to said Death Valley Farm.

2. Said George Remus; Ernest Brady, alias Buck Brady; Clarence Bell, alias Cap Bell; Clem Herbes; and Charles Wissman, on June 22, 1921, at said distillery of said W. P. Squibb and Company at Lawrenceburg, Indiana, loaded an automobile truck with 223 cases, each containing 24 bottles, of whiskey.

3 3. Said John Gehrum, on August 25, 1921, at said Death Valley Farm, sold to Nathan J. Goldman 15 cases, each containing 12 one-quart bottles, of whiskey, said bottles each then and there bearing a label with the words "Old Dearborn Whiskey" thereon.

4. Said John Gehrum, on October 18, 1921, at said Death Valley Farm, sold to Howard Hughes 12 one-quart bottles of "Old Dearborn Whiskey."

5. Said George Conners, on September 26, 1921, at said Death Valley Farm, sold to Patrick Gallagher and Henry George 192 one-quart bottles of whiskey, each bottle being labeled "Brady's Special."

6. Said John Gehrum, on June 28, 1921, at said Death Valley Farm, sold to said Patrick Gallagher 1,123 one-half pint bottles of whiskey.

7. Said John Gehrum and George Conners, on May 1, 1921, at said Death Valley Farm, employed Edward Kunkel to act as a watchman over a large quantity of whiskey then and thereafter stored on said Death Valley Farm.

8. Said defendants, on divers days during said period of time first above mentioned, transported large quantities of whiskey from said distillery of said W. P. Squibb & Company, at Lawrenceburg, Ind., to said Death Valley Farm in said western division of said southern district of Ohio.

9. Said defendants, on divers days during said period of time, transported large quantities of whiskey from said warehouse of said Edgewood Company at Cincinnati aforesaid to said Death Valley Farm.

10. Said defendants, on divers days during said period of time, at said Death Valley Farm, sold large quantities of whiskey for beverage purposes.

11. Said defendants, throughout said period of time, kept in their possession a large quantity of whiskey for sale by them at said Death Valley Farm for beverage purposes.

4 Conclusion.

And so the grand jurors aforesaid, upon their oath aforesaid, do say, that said defendants, throughout the period of time and place and in manner and form aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States, and did do acts to effect the object of the conspiracy; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

SECOND COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug, from July 1, 1920, to June 30, 1921, at said Death Valley Farm, in said city of Cincinnati, and in said Western Division of said Southern District of Ohio, unlawfully and feloniously did carry on the business of a wholesale liquor dealer without having paid the special tax therefor as required by law; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

THIRD COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug, from July 1, 1921, to April 1, 1922, at said Death Valley Farm, in said city of Cincinnati, and in said
5 Western Division of said Southern District of Ohio, unlawfully and feloniously did carry on the business of a wholesale liquor dealer without having paid the special tax therefor as required by law; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

FOURTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug,

from July 1, 1920, to June 30, 1921, at said Death Valley Farm, in said city of Cincinnati, and in said Western Division of said Southern District of Ohio, unlawfully and feloniously did carry on the business of a retail liquor dealer without having paid the special tax therefor as required by law; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

FIFTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth, from July 1, 1921, to April 1, 1922, at said Death Valley Farm, in said city of Cincinnati, and in said Western Division of said Southern District of Ohio, unlawfully and feloniously did carry on the business of a retail liquor dealer without having paid the special tax therefor as required by law; against the peace and dignity of the
6 United States, and contrary to the form of the statute of the same in such case made and provided.

SIXTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell; alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug; from July 1, 1920, to June 30, 1921, at said Death Valley Farm in said city of Cincinnati, and in said Western Division of said Southern District of Ohio, unlawfully and feloniously did carry on the business of a rectifier without having paid the special tax therefor as required by law; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

SEVENTH COUNT.

And the grand jurors aforesaid, upon their oath aforesaid, do further present, that said George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell; alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth, from July 1, 1921, to April 1, 1922, at said Death Valley Farm, in said city of Cincinnati, and in said Western Division of said Southern District

of Ohio, unlawfully and feloniously did carry on the business of a rectifier without having paid the special tax therefor as required by law; against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

THOS. H. MORROW,
United States Attorney S. D. O.

7 The following endorsement appears on the back of the foregoing indictment:

"Indictment. Sec. 37 P. C. (Conspiracy.)
"A true bill. Chas. B. Cartwright, foreman."

8 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
GEORGE REMUS ET AL. } No. 2142.

General and special demurrer of George Remus.

Now comes the defendant, George Remus, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, George Remus, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

9 (C) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor;

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fourth count of the indictment, this defendant avers;

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

11 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation againt him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite and insufficient, and does not state any fact or facts sufficient to adivse this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, George Remus, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant George Remus.

12 I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the defendant.

13 IN THE DISTRICT COURT OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

UNITED STATES OF AMERICA
vs.
HARRY F. BROWN, OTHERWISE CALLED HARRY BROWN AND A. BROWN, ET AL. } No. 2142.

General and special Demurrer of Harry F. Brown, otherwise called Harry Brown and A. Brown.

Now comes the defendant, Harry F. Brown, otherwise called Harry Brown and A. Brown, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Harry F. Brown, otherwise called Harry Brown and A. Brown, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to-wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

14 (C) That the attempted statements of alleged recitals of fact are merely statements of recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

15 And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

16 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this

defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, Harry F. Brown, otherwise called Harry Brown and A. Brown, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant Harry F. Brown,
Otherwise called Harry Brown and A. Brown.

I hereby certify that the foregoing demurrer is, in my opinion, well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the Defendant.

17 In the District Court of the United States of America, for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
GEORGE CONNERS ET AL. } No. 2142.

General and special demurrer of George Conners.

Now comes the defendant, George Conners, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, George Conners, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and that this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

18 (C) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

19 And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor;

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

20 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, George Conners, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant George Conners.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the Defendant.

21 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
JOHN GEHRUM ET AL. } No. 2142.

General and special demurrer of John Gehrum.

Now comes the defendant, John Gehrum, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, John Gehrum, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite and does not advise this defendant of the nature of the accusation against him as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment and invokes the guaranties of personal liberty and security provided for in said amendment.

22 (C) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

23 And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the

sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

24 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, John Gehrum, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant John Gehrum.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the defendant.

25 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
CLEM L. HERBES ET AL. } No. 2142.

General and special demurrer of Clem L. Herbes.

Now comes the defendant, Clem L. Herbes, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Clem L. Herbes, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(a) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(b) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

(c) That the attempted statements of alleged recitals of facts are merely statements of recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

26 (a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires.

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

27 (b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth

28 amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for a special cause of demurrer as to the seventh cause of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires:

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, Clem L. Herbes, be quashed, and that he go hence without day.

JAMES J. KILGARRIFF,
Attorney for Defendant, Clem L. Herbes.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

ELIJAH N. ZOLINE,
Counsel for the Defendant.

29 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs. No. 2142.
CLARENCE BELL, ALIAS CAP BELL.

General and special demurrer of Clarence Bell, alias Cap Bell.

Now comes the defendant, Clarence Bell, alias Cap Bell, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Clarence Bell, alias Cap Bell, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

30 (C) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

31 And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

32 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count in predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, Clarence Bell, alias Cap Bell, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant Clarence Bell, alias Cap Bell.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the defendant.

33 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA,
vs.
ERNEST BRADY, ALIAS BUCK BRADY, ET AL. } No. 2142.

General and special demurrer of Ernest Brady, alias Buck Brady.

Now comes the defendant, Ernest Brady, alias Buck Brady, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Ernest Brady, alias Buck Brady, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to-wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment of the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

34 (C) That the attempted statements of alleged recitals of fact, are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth

amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires:

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

35 And for special cause of demurrer as to the fourth count of the indictment this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United State on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

36 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore this defendant prays that the said indictment and each and every count thereof as to him, Ernest Brady, alias Buck Brady, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant, Ernest Brady, alias Buck Brady.

37 I hereby certify that the foregoing demurrer is, in my opinion, well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the Defendant.

38 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
CHARLES WISSMAN ET AL. } No. 2142.

General and special demurrer of Charles Wissman.

Now comes the defendant, Charles Wissman, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof,

and says that the same is not sufficient in law for him, the said defendant, Charles Wissman, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(a) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(b) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

(c) That the attempted statements of alleged recitals of fact are merely statements of recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment this defendant avers:

39 (a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fourth count of the indictment this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

40 (b) That said count is vague, indefinite and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon:

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States,

41 special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for a special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite and insufficient, and does not state any fact or facts, sufficient to advise this defendant of the

nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, Charles Wissman, be quashed, and that he go hence without day.

JAMES J. KILGARRIFF,
Attorney for Defendant Charles Wissman.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

ELIJAH N. ZOLINE,
Counsel for the Defendant.

42 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
GEORGE GILLENBECK ET AL. } No. 2142.

General and special demurrer of George Gillenbeck.

Now comes the defendant, George Gillenbeck, by Jas. T. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, George Gillenbeck, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(a) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(b) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

(c) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

43 (a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States;

And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and

44 does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

45 (c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

Wherefore this defendant prays that the said indictment and each and every count thereof, as to him, George Gillenbeck, be quashed, and that he go hence without day.

JAMES J. KILGARRIFF,
Attorney for Defendant George Gillenbeck.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

ELIJAH N. ZOLINE,
Counsel for the Defendant.

46 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
GEORGE DATER ET AL.
No. 2142.

General and special demurrer of George Dater.

Now comes the defendant, George Dater, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, George Dater, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(a) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act;

(b) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment;

(c) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment this defendant avers:

47 (a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon:

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

48 (b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the

nature of the accusation against him as is required by the sixth
49 amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts, sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, George Dater, be quashed, and that he go hence without day.

JAMES J. KILGARRIFF,
Attorney for Defendant George Dater.

I hereby certify that the foregoing demurrer is, in my opinion, well taken as a matter of law, and is not interposed for delay.

ELIJAH N. ZOLINE,
Counsel for the Defendant.

50 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA,
vs.
HARRY GARDEWING ET AL. } No. 2142.

General and special demurrer of Harry Gardewing.

Now comes the defendant, Harry Gardewing, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore, filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Harry Gardewing, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to-wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and

does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment of the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

51 (C) That the attempted statements of alleged recitals of fact, are merely statements or recitals of conclusions of law. And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires:

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

52 And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires:

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the

nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

53 (B) That said count is vague, indefinite and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, Harry Gardewing, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant Harry Gardewing.

54 I certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the Defendant.

55 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA,
vs.
HARRY BOYD ET AL. } No. 2142.

General and special demurrer of Harry Boyd.

Now comes the defendant, Harry Boyd, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Harry Boyd, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(a) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(b) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

(c) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

56 (a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient,
57 and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

58 (c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him, as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

Wherefore this defendant prays that the said indictment and each and every count thereof as to him, Harry Boyd, be quashed, and that he go hence without day.

JAMES J. KILGARRIFF,
Attorney for Defendant Harry Boyd.

I hereby certify that the foregoing demurrer is, in my opinion, well taken as a matter of law and is not interposed for delay.

ELIJAH N. ZOLINE,
Counsel for the Defendant.

59 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
ELMER ROTH ET AL.
No. 2142.

General and special demurrer of Elmer Roth.

Now comes the defendant, Elmer Roth, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore, filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, Elmer Roth, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to-wit, the conspiracy count, this defendant avers:

(A) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(B) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled, under the sixth amendment of the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

60 (C) That the attempted statements of alleged recitals of fact, are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

61 And for special cause of demurrer as to the fourth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

62 (B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(A) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(B) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(C) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(D) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, Elmer Roth, be quashed, and that he go hence without day.

(Signed) JAMES J. KILGARRIFF,
Attorney for Defendant Elmer Roth.

63 I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

(Signed) ELIJAH N. ZOLINE,
Counsel for the Defendant.

64 In the District Court of the United States of America for the Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
GEORGE KLUG ET AL. } No. 2142.

General and special demurrer of George Klug.

Now comes the defendant, George Klug, by Jas. J. Kilgarriff, his attorney, and demurs to the indictment heretofore filed against him in the above-entitled cause, and to each and every count thereof, and says that the same is not sufficient in law for him, the said defendant, George Klug, to be required to plead unto.

And for special ground of demurrer as to the first count thereof, to wit, the conspiracy count, this defendant avers:

(a) That it does not show facts sufficient to bring the same within the provisions of any statute of the United States of America, and does not charge the violation of any law of the United States, and particularly of the national prohibition act.

(b) That said count is defective, uncertain, insufficient, vague, and indefinite, and does not advise this defendant of the nature of the accusation against him, as to the alleged conspiracy to commit more than thirty-three hundred offenses, to which information he is entitled under the sixth amendment to the Constitution of the United States, providing that the defendant shall be informed of the nature and cause of the accusation against him; and this defendant specially relies upon the said constitutional amendment, and invokes the guaranties of personal liberty and security provided for in said amendment.

(c) That the attempted statements of alleged recitals of fact are merely statements or recitals of conclusions of law.

And for special cause of demurrer as to the second count of the indictment this defendant avers:

65 (a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the third count of the indictment this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States;

And for special cause of demurrer as to the fourth count of the indictment this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires.

(b) That said count is vague, indefinite, and insufficient,

66 and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is

required by the sixth amendment of the Constitution of the United States; special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the fifth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the sixth count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

67 (c) That at the time of the alleged offenses there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

And for special cause of demurrer as to the seventh count of the indictment, this defendant avers:

(a) That it contains no endorsement of any statute of the United States on which said count is predicated, as the law requires;

(b) That said count is vague, indefinite, and insufficient, and does not state any fact or facts sufficient to advise this defendant of the nature of the accusation against him as is required by the sixth amendment of the Constitution of the United States, special reliance being had thereon;

(c) That at the time of the alleged offenses, there was no law of the United States in force providing for the licensing of wholesale liquor dealers by the payment of a special tax therefor; and

(d) That said count does not charge a violation of any law of the United States.

Wherefore, this defendant prays that the said indictment and each and every count thereof, as to him, George Klug, be quashed, and that he go hence without day.

JAMES J. KILGARRIFF,
Attorney for Defendant George Klug.

I hereby certify that the foregoing demurrer is in my opinion well taken as a matter of law, and is not interposed for delay.

ELIJAH N. ZOLINE,
Counsel for the Defendant.

68 In the District Court of the United States, Southern District of Ohio, Western Division.

UNITED STATES OF AMERICA
vs.
GEORGE REMUS ET AL. } No. 2142.

Opinion.

PECK, District Judge.

On motion to quash and demurrer.

The first count of the indictment charges a conspiracy by the defendants to violate the national prohibition act in specified ways, with averments of overt acts of transportation, possession, and sale of whiskey for beverage purposes. The motion to quash and demurrer to this count have heretofore been overruled.

The other six counts proceed under section 3242, Revised Statutes, and charge the carrying on of the business of a wholesale and of a retail liquor dealer and of a rectifier, during two several years, without payment of the special tax provided for in section 3244, R. S. U. S. The motion to quash and demurrer raise the vexed question of the extent, if any, to which these statutes have been repealed or modified by the national prohibition act.

Under section 3242 such dealings without the payment of the tax are punishable by fine of from one to five thousand dollars and imprisonment from six months to two years. The tax is payable annually July first, in advance. Under the national prohibition law and section 5 of the supplemental act of November 23, 1921, ch. 134, p. 223, such dealers are still subject to the tax, and as to permittees manufacturing or dealing in liquor for nonbeverage purposes it is thought that the penalties prescribed by section 3242 aforesaid, for failure to pay the annual taxes, may still be in force. But as to those who deal for beverage purposes, that is to say, illegally, it is provided by section 35 of the national prohibition act that no taxes shall be received in advance, but that upon evidence of such illegal manufacture or sale a tax shall be assessed against and collected from the person responsible in double the amount provided

by law at the time the national prohibition act took effect, with an additional penalty of five hundred dollars on retail dealers,
69 and one thousand dollars on manufacturers. This provision was held by the Supreme Court in United States v. Yuginovitch, June 1, 1921, to repeal section 3257, R. S., in the case of one who makes liquor for beverage purposes without paying the tax. See also Lewis v. United States, C. C. A. 6, decided April 14, 1922; Ketchum v. United States, 270 Fed. 416. Section 3257 denounces the nonpayment of the tax with intent to defraud by a distiller, and is in parti materia with section 3242. There is no doubt that the effect of section 35 of the national prohibition act is the same upon each. The result is that while a permittee who deals in liquor for nonbeverage purposes without paying the annual tax may be subject to the penalties prescribed in section 3242, one who deals in liquor for beverage purpose is liable to the various penalties prescribed by the national prohibition act but not to those of section 3242. Gray v. United States, 276 Fed. 395 (C. C. A. 6).

Section 3242, having thus been repealed as to dealers in liquor for beverage purposes, can only operate upon a restricted class, viz, dealers in nonbeverage liquors. The statute at best can now be read only to enact that every person who carries on the business of a liquor dealer for nonbeverage purpose (or, except for beverage purposes) without having paid the special tax as required by law, shall, for every such offense, be fined and imprisoned. Even if the restriction of the class so punishable be stated by way of exception, as in the alternative form above, nevertheless it is such an exception as goes to the very definition of the offense. (1 Wharton, Crim. Ev., sec. 288, et seq.) Therefore, in order to prosecute under section 3242 for failure to pay the tax, it is necessary to bring the defendant within the now limited scope of the act by averring that he dealt in liquor for nonbeverage purposes.

The Government urges that the counts under consideration are sufficient to charge sale and manufacture contrary to the national prohibition act. They aver merely that defendants did carry on the business of a wholesale liquor dealer (retail liquor dealer, rectifier) during certain periods, without having paid the tax. In Farley v. United States, 269 Fed. 721, relied on by the Government, the court found in a similarly intended count sufficient language to charge a sale; but such is not the case here. The present language contains no specific charge of manufacture or sale, and is too general to be given effect as such.

70 The sixth and seventh counts, charging carrying on the business of a rectifier without having paid the special tax, should be especially mentioned. Rectification is nothing more than part of the process of manufacture, and is thus within the inhibition of the present law and the terms of section 35 aforesaid. These counts, therefore, are in no different situation than the others.

It is concluded that these counts are bad because there is no averment that the business carried on was in liquor for nonbeverage purposes, to which business alone the penalties for failure to pay the tax prescribed by the old revenue laws apply. Of course, no such averment could have been made if it was intended to charge as substantive offenses by the last six counts the overt acts of the first, because those acts are laid as dealings in liquor for beverage purposes. Consequently the demurrer to these six counts must be sustained.

J. W. PECK, *Judge.*

For the Government:
THOMAS H. MORROW,
United States Attorney.
R. T. DICKERSON,
Assistant United States Attorney.
For the defendants:
J. J. KILGARIFF,
Cincinnati, Ohio.
E. J. ZOLINE,
New York, N. Y.

71 In the District Court of the United States for the Southern District of Ohio, Western Division.

UNITED STATES
vs.
GEORGE REMUS ET AL. } No. 2142.

Entry.

This day this cause came on to be heard upon the demurrers of George Remus, Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug, defendants, and each of them, to the indictment herein, which demurrers were argued by counsel and submitted to the court. Upon consideration whereof the court finds that the demurrers as to the first count of the indictment not well taken and it is ordered by the court that the demurrers to the first count of the indictment be and the same is hereby overruled. To which ruling of the court the defendants, by their counsel then and there duly excepted.

Upon consideration of said demurrers as to counts 2, 3, 4, 5, 6, and 7, of said indictment the court finds same to be well taken and it is ordered by the court that the said demurrers of the defendants are sustained as to said counts 2, 3, 4, 5, 6, and 7, and said counts are hereby dismissed.

(Signed) PECK, *J.*

72 In the District Court of the United States, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
GEORGE REMUS; HARRY F. BROWN, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; Elmer Roth; George Klug, defendants. | No. 2142. Criminal.

Petition for writ of error.

Now comes the United States of America, plaintiff herein, and says that on or about the twenty-fifth day of April, 1922, this court entered a judgment herein against the plaintiff and in favor of the defendants, in which judgment and the proceedings had prior thereto and in connection therewith in this cause, certain errors were committed to the prejudice of this plaintiff, all of which will appear more in detail from the assignment of errors which is filed with this petition.

Wherefore, the United States of America, plaintiff herein, prays that a writ of error may issue in its behalf to the Supreme Court of the United States, for the correction of the errors so complained of, and that a transcript of the record, proceedings, and papers in this cause, duly authenticated, may be sent to the said Supreme Court of the United States.

THOS. H. MORROW,
United States Attorney for the Southern District of Ohio, Western Division.

73 In the District Court of the United States, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
GEORGE REMUS; HARRY F. BROWN, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Boyd; Harry Gardewing; Elmer Roth; George Klug, defendants. | No. 2142. Criminal.

Assignment of errors.

The plaintiff in this action, with its petition for writ of error, making the following assignment of errors, which it avers occurred in the decision of the cause, to wit: The learned court erred—

1. In refusing to overrule the motion to quash filed herein as to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment.

2. In refusing to overrule demurrer filed herein as to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment.

3. In sustaining the motion to quash filed herein as to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment.

4. In sustaining demurrer filed herein as to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment.

5. In sustaining the motion to quash interposed to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment in this connection founded upon section 3242–A of the Revised Statutes of the United States, upon the ground that the facts stated in those counts do not constitute an offense under said section of the Revised Statutes.

74 6. In sustaining the demurrer interposed to counts No. 2, 3, 4, 5, 6, and 7 of the indictment in this connection founded upon section 3242–A of the Revised Statutes of the United States, upon the ground that the facts stated in those counts do not constitute an offense under said section of the Revised Statutes.

7. In sustaining the motion to quash interposed to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment in this connection founded upon section 3242–A of the Revised Statutes of the United States, upon the ground that the provisions of the section are no longer in force.

8. In sustaining the demurrer interposed to counts Nos. 2, 3, 4, 5, 6, and 7 of the indictment in this connection founded upon section 3242–A of the Revised Statutes of the United States, upon the ground that the provisions of that section are no longer in force.

THOS. H. MORROW,
United States Attorney, Southern District of Ohio, Western Division.

75 In the District Court of the United States, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF, *vs.* GEORGE REMUS; HARRY F. BROWN, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum, Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardenwing; Harry Boyd; Elmer Roth; George Klug, defendants.	No. 2142. Criminal.

Entry.

This day came the United States attorney for the Southern District of Ohio, on behalf of the plaintiff and presented for allow-

ance a petition for writ of error and an assignment of errors accompanying the same, and upon consideration of the same,

It is hereby ordered that said petition be, and the same hereby is, allowed, and that a writ of error to the Supreme Court of the United States shall issue.

(Signed) J. W. PECK,
Judge of the United States District Court for the Southern District of Ohio.

76 UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable the Judge of the District Court of the United States for the Western Division of the Southern District of Ohio, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court before you, or some of you, between the United States of America, plaintiff in error, and George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; Elmer Roth; and George Klug, defendants in error, a manifest error hath happened, to the great damage of the said United States of America as by its complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court at Washington, within 30 days from the date hereof, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness the Honorable William Howard Taft, Chief Justice of the United States, the 23d day of May, in the year of our Lord one thousand nine hundred and twenty-two.

[SEAL.]

B. E. DILLEY,
Clerk of the District Court of the United States, S. D. O.,
By HARRY F. RABE,
Deputy.

Allowed by
J. W. PECK,
Judge of United States District Court, S. D. O.

77 UNITED STATES OF AMERICA, ss:

To George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; and Elmer Roth; and George Klug, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date hereof, pursuant to a writ of error, filed in the Clerk's Office of the District Court of the United States for the Western Division, Southern District of Ohio, at Cincinnati, Ohio, wherein the United States of America is plaintiff in error and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error as in the said writ of error mentioned should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable John Weld Peck, judge of the District Court of the United States, this 23rd day of May, in the year of our Lord one thousand nine hundred and twenty-two.

J. W. PECK,
Judge of the District Court of the United States, S. D. O.

78 In the District Court of the United States, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA, PLAINTIFF, *vs.* GEORGE REMUS; HARRY F. BROWN, OTHERWISE called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; Elmer Roth; George Klug, defendants.	No. 2142. Criminal.

Præcipe.

T. B. E. Dilley, Clerk of the United States District Court for the Southern District of Ohio:

Please prepare a certified transcript of the following pleadings, papers, and orders in the above-entitled cause, to be filed in the Supreme Court of the United States, viz, indictment, general and special demurrer of each defendant, order overruling demurrer as to first count, and sustaining demurrer as to second, third, fourth,

fifth, sixth, and seventh counts, petition for writ of error, assignments of error, order allowing writ of error, writ of error, citation, and this præcipe.

THOS. H. MORROW,
United States Attorney, Southern District of Ohio, Western Division.

79 United States District Court, Southern District of Ohio, Western Division.

THE UNITED STATES OF AMERICA *vs.* GEORGE REMUS; HARRY F. BROWN, otherwise called Harry Brown and A. Brown; George Conners; John Gehrum; Clem L. Herbes; Clarence Bell, alias Cap Bell; Ernest Brady, alias Buck Brady; Charles Wissman; George Gillenbeck; George Dater; Harry Gardewing; Harry Boyd; Elmer Roth; and George Klug.	No. 2142. Criminal.

THE UNITED STATES OF AMERICA,
Southern District of Ohio, Western Division, ss:

I, B. E. Dilley, clerk of the District Court of the United States within and for the Division and District aforesaid, do hereby certify that the foregoing — typewritten pages, contain a true, correct, and complete transcript of those portions of the record and proceedings in the above-entitled cause indicated in the præcipe filed herein on May 23rd, 1922, and that the same constitute the return to the annexed writ of error and citation.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of said court at the city of Cincinnati, Ohio, this 24th day of May, A. D. 1922.

[SEAL.]

B. E. DILLEY,
Clerk.
By HARRY F. RABE,
Deputy.

(Indorsement on cover:) File No. 28953. W. Ohio. D. C. U. S. Term No. 403. The United States of America, plaintiff in error, vs. George Remus; Harry F. Brown, otherwise called Harry Brown and A. Brown; George Conners; et al. Filed May 27th, 1922. File No. 28953.

(On cover:) No. —. United States District Court, Southern District of Ohio, Western Division.

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